



**State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2900 FAX (603) 271-2456



October 14, 2002

**CERTIFIED MAIL
7099 3400 0002 9773 1601
RETURN RECEIPT REQUESTED**

**LETTER OF DEFICIENCY
No. WMD 02-40**

TFX Medical
50 Plantation Dr.
Jaffrey, New Hampshire 03452

Mr. Frederick Preiss, Vice President, Operations

**TFX Medical
Jaffrey, New Hampshire
EPA ID # NHD037706082**

Dear Mr. Preiss:

On August 21, 2002, the Department of Environmental Services (DES) conducted an inspection of TFX Medical (TFX). The purpose of the inspection was to determine TFX's compliance status with RSA 147-A and its implementing regulations, the New Hampshire Hazardous Waste Rules (codified as Env-Wm 100-1100).

As a result of the inspection, the following deficiencies in your hazardous waste management program were documented:

Env-Wm 502.01 - Hazardous Waste Determination

At the time of inspection, TFX was classifying and manifesting, "waste Isopar" as an "F004/D001" hazardous waste. DES has determined that "F004" is not an applicable waste code for this waste stream. During the inspection TFX personnel indicated that the waste Isopar is an off-specification product. Therefore, the "waste Isopar" is not a "spent non-halogenated solvent" and it would not be classified as an "F004" waste. However, the flash point and cresol content of the waste Isopar qualifies it for classification as a "D001", ignitable characteristic waste and a "D026", toxicity characteristic waste, respectively.

Env-Wm 402.06(a) lists the following as a generic industrial process waste:

F004 - The following spent non-halogenated solvents: Cresols and cresylic acid, and nitrobenzene; all spent solvent mixtures/blends containing, before use, a total of 10 percent or more, by volume, of one or more of the above non-halogenated solvents or those solvents listed in F001, F002, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures.

Env-Wm 502.01 requires that all generators of waste determine if their waste is a hazardous waste. Waste determined to be hazardous must be handled pursuant to the requirements of the Hazardous Waste Rules. This includes documenting appropriate EPA and/or state waste codes for hazardous waste disposal shipments.

DES requests TFX to ensure that complete hazardous waste determinations are performed on waste streams when they are generated. Specifically, DES requests TFX to ensure that the "waste Isopar" is handled and manifested as a "D001, D026" characteristic hazardous waste.

2. Env-Wm 504.02(d) – Notification Requirements

At the time of inspection, according to DES notification records, TFX had notified as a Full Quantity Generator (>1000 kilograms/ month). However, a review of waste disposal records indicates that TFX's generator status is that of a Full Quantity Generator (100 - 1000 kilograms/ month).

Env-Wm 504.02(d) requires that a generator shall notify DES in writing of any changes to the information required in Env-Wm 504.02(b), including generator status, within 30 days of the effective date of the change.

DES requests that TFX review facility hazardous waste generation rates in order to determine proper generator status; and if necessary, complete and submit a subsequent notification form (enclosed) that accurately reflects the change in generator status.

3. Env-Wm 507.01(a)(3) – Storage Requirements

At the time of the inspection, one (1) 55-gallon container of hazardous waste oil was not closed.

Env-Wm 507.01(a)(3) requires generators to ensure that containers storing hazardous waste be closed at all times, except when waste is being added to or removed from the containers.

DES requests that TFX ensure containers storing hazardous waste are closed at all times, except when adding to or removing waste from the containers. Safety funnels that thread into the bung and have closeable lids that seal are acceptable for this purpose.

Be advised that if the used oil determination, required in violation #11, indicates that the waste is, in fact, "used oil for recycle", TFX need only comply with the requirements of Env-Wm 807 *et. seq.*

4. Env-Wm 507.03(a)(2) Labeling Requirements

At the time of inspection, hazardous waste labels on two (2) of the four (4) containers of hazardous waste "alcohol and etch", located in the 90-day hazardous waste storage area, were not visible. The hazardous waste labels on the two (2) containers were hidden by the other containers and the back wall of the 90-day hazardous waste storage area.

Env-Wm 507.03(a)(2) requires generators to ensure that hazardous waste labels are not hidden by walls or other containers.

DES requests that TFX ensure containers used to store hazardous waste have hazardous waste labels that are visible at all times.

5. Env-Wm 509.02(a)(1)- Inspection Requirements

A review of TFX's Hazardous Waste Inspection Checklist revealed that the date and nature of repairs or remedial actions taken, were not documented.

Env-Wm 509.02(a)(1), which references 40 CFR 265.15, requires full quantity generators to conduct and document inspections of the facility, including the hazardous waste storage area(s). The inspections are required to be recorded in a log which includes the name of the area being inspected, the date and time of the inspection, the name of the inspector, a notation of the observations made and the date and nature of any repairs or other remedial actions taken.

DES requests that TFX amend the existing Hazardous Waste Inspection Checklist to reflect the date and nature of any necessary repairs or remedial actions taken. Submit an updated Hazardous Waste Inspection Checklist to DES.

6. Env-Wm 509.02(a)(2) – Personnel Training

A review of TFX's personnel training records revealed that eight (8) maintenance employees responsible for hazardous waste management, including Martin Earley, Steven Lloyd, Dan Jones, Robert Miller, Bob Martel, Norman Descoteaux, Oris Pelkey and Lawrence Robinson, had not received hazardous waste training and/or taken part in annual reviews. The maintenance employees had received OSHA 1910.120 training, however, the training program was not sufficient to cover the requirements outlined in Env-Wm 509.02(a)(2).

Additionally, the training records failed to document a training program which includes a list of hazardous waste job titles, job descriptions, descriptions of introductory and continuing training to be provided for each position, and names of employees filling each position.

Env-Wm 509.02(a)(2), which references 40 CFR 265.16, Personnel Training, requires full quantity generators to maintain a personnel training program. This includes, but is not limited

to, ensuring that initial training and annual reviews are conducted for personnel handling hazardous waste, and requires full quantity generators to maintain specific documents and records related to personnel training.

DES requests that TFX conduct and document hazardous waste training and annual reviews for all employees who handle hazardous waste, and maintain a written personnel training program which provides a description of the type and amount of introductory and continuing training that is given to persons filling each hazardous waste related position.

DES requests that TFX maintain, as part of the program, documentation of hazardous waste job titles, job descriptions, and names of employees filling each position and correct any deficiencies as identified in the enclosed Hazardous Waste Generator RCRA Inspection Checklist. Please submit a copy of this personnel training program to DES. Enclosed please find a suggested outline for training programs that may be used as a guide.

7 Env-Wm 509.02(a)(3) – Requirements for Ignitable, Reactive or Incompatible Wastes

At the time of the inspection, TFX had not posted a “No Smoking” sign near ignitable wastes stored in the 90-day hazardous waste storage area.

Env-Wm 509.02(a)(3), which references 40 CFR 265.17, requires that generators post a “No Smoking” sign wherever there is a hazard from ignitable or reactive waste.

DES requests that TFX post a “No Smoking” sign near ignitable wastes stored in the facility’s 90-day hazardous waste storage area.

8 Env-Wm 509.02(a)(4) – Preparedness and Prevention

At the time of the inspection, the 90-day hazardous waste storage area failed to have an internal/external communication system capable of providing immediate contact with facility personnel and local authorities (e.g., fire department).

Env-Wm 509.02(a)(4), which references 40 CFR 265 Subpart C, Preparedness and Prevention, requires generators to have an internal communication system capable of providing immediate contact with facility personnel, and a device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams. All required hazardous waste storage area equipment must be installed or available within 100 feet of the storage area

DES requests that TFX maintain at the 90-day hazardous waste storage area a communication system capable of providing immediate communication with facility personnel and local authorities.

9. Env-Wm 509.02(a)(5) – Contingency Plan

A review of TFX's contingency plan revealed deficiencies regarding the following

- (a) The plan had not been immediately amended to reflect a change in the alternate emergency coordinator.
- (b) Instructions to notify local authorities that the facility is in compliance with 40 CFR 265.56(h)(1) & (2) before resumption of activities; and
- (c) An instruction indicating when to file a 15-day report with DES's Waste Management Division and a listing of specific information [listed in 40 CFR 265.56(j)] to include in a 15-day report filed with DES's Waste Management Division.

Env-Wm 509.02(a)(5), which references 40 CFR 265, Subpart D, requires full quantity generators to maintain a complete contingency plan at the site.

DES requests that TFX revise and update its contingency plan to correct any deficiencies as identified in the enclosed Hazardous Waste Generator RCRA Inspection Checklist. Enclosed please find a suggested outline for a contingency plan which may also be useful as a guide.

10. Env-Wm 509.02(b) – Emergency Posting

At the time of the inspection, TFX did not have an emergency posting at the nearest telephone adjacent to the hazardous waste storage area.

Env-Wm 509.02(b) requires that full quantity generators post a list of the steps to take if an emergency occurs and the following emergency information at the nearest telephone to the hazardous waste storage area:

- (a) The telephone numbers of the emergency coordinators (home and office);
- (b) Contact information for the fire department, police department, and State of New Hampshire and local emergency response teams that may be called upon to provide emergency services, unless the facility has a 24-hour response team designated to provide emergency services whose number is posted; and
- (c) The location of fire extinguishers and spill control material, and if present, fire and internal emergency alarms.

DES requests that TFX post the required information at the nearest telephone to the hazardous waste storage area. Please submit a copy of the emergency posting to DES. Enclosed is a sample posting for your reference.

11. Env-Wm 509.03(i)(1)a.– Satellite Storage

At the time of the inspection, three (3) of the four (4) 55-gallon containers of “waste alcohol and etch” stored in the 90-day hazardous waste storage area were marked with the same accumulation fill date, July 26, 2002. An explanation was provided by TFX in an August 28, 2002 E-mail. The E-mail indicated that the three (3) containers had been mistakenly stored in the used oil storage area and were not marked with the fill date of accumulation. The three (3) containers were dated upon discovery and later moved to the 90-day hazardous waste storage area.

Env-Wm 509.03 allows a full quantity generator to accumulate as much as 55 gallons of hazardous waste at or near the point of generation.

Env-Wm 509.03(i)(1)a. further states that when the amount of hazardous waste in a satellite storage area reaches the accumulation limit, the generator must immediately label or mark the container with the date the accumulation limit was reached and move the container to a designated hazardous waste storage area within 3 days.

DES requests that TFX ensure that satellite storage containers that have reached the accumulation limit are immediately marked with the date the accumulation limit was reached and moved to a designated storage area within 3 days.

12. Env-Wm 807.06(b)(7) - Standards for Generators of Used Oil being Recycled

At the time of inspection, it was disclosed that a used oil determination had not been conducted for the waste hydraulic oil.

Env-Wm 807.06(b)(7) requires generators to conduct an initial used oil determination by analyzing it for all of the parameters specified in Env-Wm 807.02 and Env-Wm 807.03 (exclusive of PCB's if no source of PCB's is present).

DES requests that TFX conduct an initial used oil determination for the parameters outlined in Env-Wm 807.02 and Env-Wm 807.03. These parameters include arsenic, cadmium, chromium, lead, flash point, and total halogens. TFX should provide the results of the used oil determination to DES. Enclosed please find a summary of the used oil regulations and a list of analytical laboratories that perform the required testing.

DES believes the cited deficiencies can be corrected and a report describing the corrective measures taken by TFX can be submitted within thirty (30) days of receipt of this letter. Supporting documentation that describes the measures taken to achieve compliance should be included with the report.

In the event compliance is not achieved within this period, DES may take further action against TFX, including issuing an order requiring that deficiencies be corrected, initiating an administrative fine proceeding, and/or referring the matter to the New Hampshire Department of Justice for imposition of civil penalties. In addition, DES personnel may re-inspect your facility at a later date to determine whether the facility has come into, and is maintaining, full compliance with the applicable rules. Fines may be pursued for any or all violations observed during subsequent inspections of the facility.

The written report as requested above should be addressed as follows:

Kenneth W. Marschner, Administrator
DES/WMD
6 Hazen Drive
Concord, New Hampshire 03301-6509

Enclosed you will find a copy of the completed Hazardous Waste Generator RCRA Inspection Checklist which documents the compliance status of your facility at the time of the inspection. This checklist may also be of value to you for use in determining future compliance with the New Hampshire Hazardous Waste Rules.


The State of New Hampshire Hazardous Waste Rules, as well as much other useful information, can be obtained from DES's website at <http://www.des.state.nh.us/hwcs/>, or by contacting the Public Information Center at (603) 271-2975.

It is the goal of DES to promote the prevention of pollution at the source as the preferred option for meeting established environmental quality goals. We strive to ensure that pollution prevention options are considered first, followed by recycling, treatment and disposal. I am requesting that the DES's Pollution Prevention Coordinator, Stephanie D'Agostino, contact you to discuss possibilities for waste minimization or source reduction at your facility. In the meantime, if you have immediate questions about pollution prevention, please feel free to contact her at 271-6398.

As a service to New Hampshire's hazardous waste generators, we maintain a Hazardous Waste Assistance Hotline which is available for you to contact our knowledgeable staff of hazardous waste inspectors. Our hazardous waste staff is available to answer your questions concerning the New Hampshire Hazardous Waste Rules and the compliance issues which affect your hazardous waste management program. The technical assistance available through the Hotline includes fact sheets that pertain to the management and recycling of specific wastes, summary sheets of specific sections of the Hazardous Waste Rules, copies of EPA and New Hampshire hazardous waste policy or regulatory interpretation letters that may benefit your operation, and networks with other state or federal agencies to answer your questions on a national level. The Hotline is available Monday through Friday, 8:00 AM to 4:00 PM at 271-2942.

Should you have any questions regarding this letter, please contact the lead inspector, Robert Bishop or John J. Duclos, Supervisor of the Hazardous Waste Compliance Section, at 271-2942. Thank you for your cooperation.

Sincerely,


COPY
Kenneth W. Marschner, Administrator
Waste Management Programs
Waste Management Division

CC: DB/RCRA/LOD/Archives
Philip J. O'Brien, Ph.D., Director, WMD
Gretchen Rule, Administrator, DES Legal Unit
James Carey, EHS Manager

E-mail: JJD/SD/SD/PM

Enclosure: Inspection Checklist
NHDES "Suggested outline for a contingency plan"
NHDES List of "Laboratories that test hazardous waste"
NHDES "Summary of the used oil regulations"
Instructions for Preparing the NH Hazardous Waste Activity Notification Form
Hazardous Waste Activity Notification Form
Sample Emergency Posting